



# MAYOR AND COUNCIL AGENDA

NO. 12

DEPT.: Community Planning and Development Services DATE: December 16, 2004

CONTACT: Scott E. Parker, AICP, Planner III

**ACTION:** Public Hearing to consider the annexation of 16.95 acres of land, more or less (ANX2004-00136), known as Twinbrook Metro Station site of the Washington Metropolitan Area Transit Authority (WMATA), owners, including 6,336 square feet of property known as Part of Lots 13 and 14, Block 8, Spring Lake Park Subdivision, and a portion of Ardennes Avenue right-of-way, Montgomery County Maryland, owners.

ANX2004-00136, JBG Companies and Patricia Harris, Esq. (of the law firm of Holland and Knight), applicants.

## ACTION STATUS:

**FOR THE MEETING OF:** 01/10/05

INTRODUCED  
PUB. HEARING  
INSTRUCTIONS  
APPROVED  
EFFECTIVE

## ROCKVILLE CITY CODE,

CHAPTER  
SECTION

☐ CONSENT AGENDA

**RECOMMENDATION:** Conduct Public Hearing and hold record open for a period of two weeks until 5:00pm, January 24, 2005.

**IMPACT:** ☐ Environmental ☒ Fiscal ☒ Neighborhood ☐ Other:

Annexation into the City will facilitate the Twinbrook Commons development project, and unify the proposal under a single jurisdiction.

**BACKGROUND:** Twinbrook Commons L.L.C. and WMATA have entered into a joint development agreement to develop the 26-acre WMATA owned property at the Twinbrook Metro Station. The applicant is proposing a mixed-use residential, office, and retail transit oriented development. Currently, 16.18 acres of the project are in Montgomery County. The portion of the proposed development within the City on the west side of the tracks is 8.36 acres. There is also a 1.77-acre parcel within the City of Rockville on the east side of the tracks that is commonly referred to as the Suburban Propane site. Utilizing the Comprehensive Map Amendment procedure, the City will obtain the ability to rezone the Suburban Propane site, from I-2 to RPC along with the property that is the subject of annexation. In addition, a portion of Ardennes Avenue is being annexed (approximately .77 acres), for a total project area of 27.08 acres.

The subject area to be annexed into the City is proposed to be zoned RPC (Rockville Pike Corridor). It is the goal of the City and the applicant to obtain consistent zoning across the entire project area.

Details of the proposal can be found in the attached Preliminary Report (Attachment 2). The Applicant has also provided a draft Annexation Agreement, which is attached for review as well. (Attachment 3).

The Planning Commission considered this application at their meeting of December 14, 2004, and their recommendation is attached (Attachment 4).

Other information regarding the Twinbrook Commons development can be obtained in associated cases that include the Map Amendment (MAP2004-00090), the Preliminary Development Plan (PDP2004-00009), and the Text Amendment case (TXT2004-00213).

**RECOMMENDATION:**

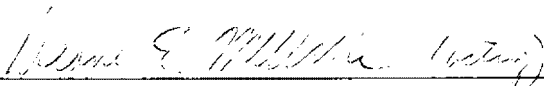
Staff recommends that the Mayor and Council recommend in favor of annexation of the property into the City of Rockville.

**PREPARED BY:**

  
\_\_\_\_\_  
Scott E. Parker, AICP, Planner III

12/21/04  
\_\_\_\_\_  
Date

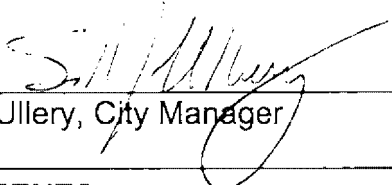
**APPROVE:**

  
for \_\_\_\_\_  
Robert Spalding, AICP, Chief of Planning

12/22/04  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Arthur D. Chambers, AICP, Director

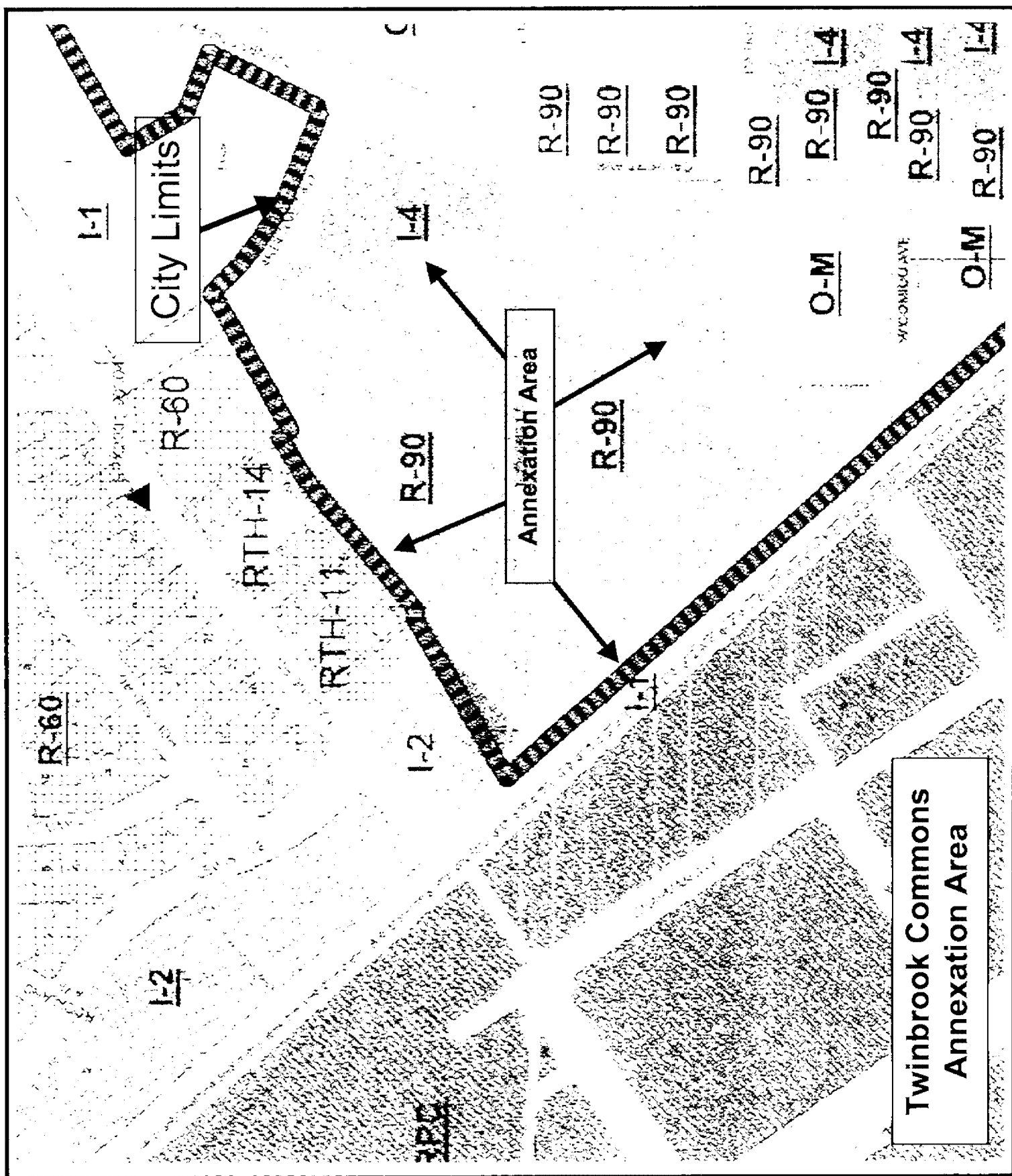
12/21/04  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Scott Ullery, City Manager

1/01/05  
\_\_\_\_\_  
Date

**LIST OF ATTACHMENTS:**

1. Site Map - page 1
2. Preliminary Report - page 2
3. Annexation Agreement - page 21
4. Planning Commission Recommendation Memo - page 41



**CITY OF ROCKVILLE PLANNING DIVISION  
PRELIMINARY REPORT**

November 30, 2004

ATTACHMENT 2

**SUBJECT:** Annexation Petition ANX2004-00136

Petitioners: Washington Metropolitan Area Transit Administration  
(WMATA)  
600 5<sup>th</sup> Street NW  
Washington, DC 20001

Holland and Knight, LLP, Attorneys for  
The JBG Companies  
Suite 800, 3 Bethesda Metro Center  
Bethesda, MD 20814-6301

Property Location: 16.95 acres of property, generally bounded by:  
Ardennes Avenue to the north  
Twinbrook Parkway to the East  
WMATA and CSX tracks to the West  
Parklawn Drive to the South

Planning Commission Public Hearing Date: December 14, 2004  
Mayor and Council Public Hearing Date: January 10, 2005

**REQUEST:**

The petitioners request annexation into the City of Rockville property consisting of a single parcel of 16.95 acres, located adjacent to and part of, the Twinbrook Metro Station. This annexation petition will be combined with approximately 10 acres of land that is currently within the jurisdiction of the City of Rockville to create what is referred to as the Twinbrook Commons development. The land has frontage on Ardennes Avenue (a portion of which is included within the annexation petition), Twinbrook Parkway to the west, Parklawn Lane to the south and the CSX and Washington Metropolitan Area Transit Authority (WMATA) tracks to the east.

The land is currently owned and used by WMATA for the Twinbrook Metro station, which is a Red Line stop that is the third outermost Metro stop on the Shady Grove leg of the Red Line. The site is mostly paved, with scattered tree coverage.

The petitioner requests that the Mayor and Council classify the parcel as RPC, Rockville Pike Commercial, upon annexation. This zoning category is consistent with the adjacent land use within the City that will be part of a future development plan. The applicants want to develop the property, along with the property that is currently within the City, with 1,706 residential units, 325,000 square feet of office and 220,000 square feet of commercial retail. The applicant has made a number of modifications to the plan to address issues raised by residents and the City. A list of these modifications is attached. (Attachment 6).

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## **PREFACE:**

The subject petition has been submitted in accordance with provisions of Article 23A of the Annotated Code of Maryland, which specifies procedures for annexation to a municipal corporation. This law requires the Mayor and Council to introduce a resolution to propose annexation promptly upon being petitioned to do so. Such a Resolution was introduced on September 13, 2004, and the Mayor and Council have scheduled a public hearing for November 1, 2004. The Mayor and Council are also required to conduct a public hearing simultaneously for adoption of a new zoning map of the affected area.

Prior to the Mayor and Council's public hearing, the Planning Commission is required to study the subject area and transmit to the Mayor and Council its recommendation as to the appropriate zoning. The Rockville Zoning and Planning Ordinance requires that the Planning Commission also conduct a public hearing in conjunction with recommending new zoning.

## **ANALYSIS:**

**The Property** – The subject parcel contains approximately 16.95 acres, and is generally square in shape. The property lines in some locations on the western edge of the property boundary wrap around different ownerships of adjacent properties. The County zoning for the property is currently TS-R, Transit Station Residential. The property has been owned by WMATA for some time. It should be noted that this 16.95 acres comprises a portion of the full 26-acre development, with the balance, approximately 9 acres currently within the City of Rockville under the proposed RPC zoning, not included in the annexation petition.

**Existing and Proposed Land Use and Zoning in the Area** – The subject site abuts land within the City of Rockville along the entirety of the northern border, while the balance to the east and south is Montgomery County zoning. Of the northern properties adjacent to the site, one parcel of 1.77 acres, adjacent to the CSX tracks, is zoned I-2, Light Industrial. This parcel, commonly referred to as the Suburban Propane property, is the only portion of the proposed 26-acre development within the City of Rockville on the east side of the CSX tracks. While not part of the annexation petition, given its current location within the City, it will be subject to the Map Amendment that will change the zoning for the annexed portion to RPC.

Adjacent to this parcel are residentially zoned parcels that are improved with single-family detached and single-family attached dwelling units, including the Twinbrook neighborhood. Moving further to the east along the northern border of the subject property is a parcel that was recently annexed into the City of Rockville with an O-1 Office Building zone. There is also an I-1, light industrial parcel adjacent to the subject property, which is improved with a variety of smaller businesses and some public service type buildings.

The properties within the County that are adjacent to this parcel are light industrial and office. A variety of small business and industries border the property, as well as the Parklawn Building, which houses the Department of Health and Human Services.

**Public Services and Facilities** – The subject property is within the Washington Suburban Sanitary Commission (WSSC) Service District. Conversely, the part of the development application that is within the City on the west side of the tracks is in the Rockville Service District area. Although the annexation area is within a WSSC service area, the City of Rockville has utilities that transverse the site within an established easement. It is anticipated that the part of the Twinbrook Commons development that is located within this annexation area will be served by WSSC.

According to the Department of Public Works (DPW), there are no known capacity problems with either the water or sewer in the area. Any expense incurred in providing water and sewer services shall be the responsibility of the developer of the property.

The new development will also have to meet all applicable stormwater management requirements, including quantity and quality controls. All of the details would be worked out at the time of review and approval of a Use Permit(s).

All of the requirements of the Forest and Tree Preservation Ordinance (FTPO) and the Environmental Guidelines will need to be met. The site is not heavily wooded, being predominantly utilized as Metro parking. However, certain criteria must be met and will be evaluated as the development progresses.

There are no public facilities currently located on the property. Rockville services, such as police protection, will be provided through general tax revenue. Any public improvements necessitated by future development, such as storm drains or stormwater management facilities, will be the full responsibility of the developer to construct and install under established permit and bond procedures.

**Rockville Master Plan Regarding Annexation** – The property is located within the City of Rockville Urban Growth Area (previously known as the Maximum Expansion Limits). As such, the 2002 City Master Plan recommends the entire property for annexation into the City. The property is recommended for the RPC and RPR zones.

**Montgomery County Master Plan** – The 1992 North Bethesda/Garrett Park Master Plan gives considerable attention to three Sector Plan areas located along the Metro's Red Line, in an attempt to promote transit use and utilize existing infrastructure. The recommendations as they relate to the Twinbrook Sector Plan area are intended to promote transit-oriented mixed-use development, primarily with residential development. A majority of the project's proposed residential density will be located within the annexed area, promoting adherence to the outlined Master Plan principles and goals for the area. The North Bethesda Plan recommends no more than 60 du/ac on the property, although the TS-R Zone allows greater density.

**Annexation Recommendation** – Due to the fact that the property lies within the Urban Growth Area of the City of Rockville, and that it is contiguous to the City, approval of annexation is recommended. Annexation of the parcel will help fulfill the City's goal of annexing strategically situated parcels near the City's boundaries. The annexation is in keeping with the Smart Growth initiatives of the State of Maryland, including a policy directive for concentrating growth in urban centers to further environmental objectives for preservation of natural resources. In addition, annexing the property would give the entire development proposal a continuity of jurisdictions for a variety of issues, including police protection, taxation and general services.

The proposed development will require additional land use approvals from the City, subsequent to the annexation and rezoning, including a Preliminary Development Plan (PDP), a Use Permit and Final Record Plat(s). While the specific development proposal will be the subject of the development review process, it should be noted that certain development parameters are being established as a part of the annexation. These include, but are not limited to, the number of dwelling units and the amount of commercial office and retail space proposed. It should be noted that the applicants have received Preliminary Plan approval from the Montgomery County Planning Board for their proposal.

It is anticipated that the consent of the Montgomery County Council will not be required in this case because the proposed zoning and land use are similar to those that would be allowed in the current Montgomery County zone, and are consistent with the Preliminary Plan (1-04054) approved by the Montgomery County Planning Board on May 6, 2004

#### **ZONING MAP:**

**Procedure** – When land is annexed, all zoning upon that land which was imposed by the authority previously having jurisdiction will no longer exist. Therefore, the Mayor and Council must adopt a new Zoning Map to become effective upon annexation. In conjunction with this application, a map amendment recommending RPC zoning for the entire property is underway.

**Montgomery County Zoning Recommendation** – The Montgomery County Master Plan specifies that the property be zoned TS-R, Transit Station Residential. The TS-R zoning category is currently in place for the property, which encourages mixed-use, transit-oriented development. It should be noted that the proposed development received Preliminary Plan approval from Montgomery County under this zoning category. The TS-R zone is compatible and similar to the principles and objectives of the proposed RPC zoning.

**The Rockville Master Plan Regarding Land Use and Zoning** – The 2002 adopted Master Plan for the City of Rockville recommends that the area, if annexed, be brought into the City under RPC and RPR zoning, and to be placed in the Twinbrook Metro Performance District. This zoning classification was recommended as a way to achieve the objectives of the Metro Performance District through the use of the optional method of development. The Metro Performance District specifies mixed-use, transit-oriented development in designated areas adjacent or close to transit opportunities provided by Metro Stations.

As previously stated, the applicant is requesting RPC zoning on the property. This zoning classification is already in place for the portion of the development currently within the City of Rockville on the west side of the CSX and Metro tracks. The Suburban Propane site on the east side of the tracks, the 1.77-acre piece that is within the City limits, is zoned I-2. The accompanying Map Amendment requests changing the zoning on that piece of property to the RPC zoning classification as well. This is supported by the Master Plan, which recommends the RPC/Metro Performance District designation if the property is developed comprehensively in conjunction with parcels owned by WMATA.

The RPC zone permits a maximum density of 1.5 FAR for non-residential use, for mixed use residential and office projects, plus a maximum residential density of 60 units per acre.

**Zoning Map Recommendation** – Staff recommends that the subject property be placed in the RPC zone, if the Mayor and Council act to annex the property. This land use recommendation is consistent with the recommendations found in the Rockville Master Plan, Rockville Pike Corridor Neighborhood Plan, and the applicable Montgomery County Plan. An annexation agreement will be drafted to ensure that proposed development on the site, the recommendation of the Montgomery County Master Plan, and the requirements of the Zoning Ordinance, are compatible.

Attachments:

- Applicant's Letter and Petition for Annexation
- Legal Description
- Tax Map
- Zoning Map
- Aerial map
- Development Plan Changes



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Providence	
St. Petersburg	*Holland & Knight LLC
San Antonio	**Representative Office

July 21, 2004

PATRICIA A. HARRIS  
301-215-6613  
paharris@hklaw.com

ATTACHMENT 1

## VIA HAND DELIVERY

The Honorable Larry Giammo and  
Members of the City Council  
City Hall  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Petition for Annexation for 16.95 acre property known as the Twinbrook Metro Station Site (including 6,336 square feet property known as Part of Lots 13 and 14, Block 8, Spring Lake Park Subdivision and portion of Ardennes Road right-of-way) (the "Property").

Dear Mayor Giammo and Members of the City Council:

Enclosed please find one original and two copies of the above-referenced Petition for Annexation, the attachments referenced therein, and a check in payment to the City of Rockville for the annexation fee in the amount of \$1,850. The Property which is the subject of this annexation is located to the east of the Twinbrook Metro Station and west of Twinbrook Parkway, adjacent to the boundary of the City. Pursuant to the City's request, the annexation parcel includes a portion of the Ardennes Road right-of-way. During the processing of the Petition for Annexation, we will meet with the City and County to determine the precise portion of Ardennes Road to be included in the Annexation. It is possible that the final Annexation will include slightly less land area than that set forth on the Annexation Petition, if it is determined that the portion of Ardennes Road to be included in the Annexation should not extend as far to the east as currently provided.

The annexation of the Property into the City of Rockville is intended to accommodate the joint development of the Property by WMATA and Twinbrook Commons, L.L.C. The joint development will include that portion of the Twinbrook Metro Station site already located

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## PETITION FOR ANNEXATION

TO THE MAYOR AND COUNCIL OF THE CITY OF ROCKVILLE:

Come now the Petitioners, Washington Metropolitan Area Transit Authority ("WMATA"), pursuant to Article 23A, § 19 of the Annotated Code of Maryland, to petition the Mayor and Council of the City of Rockville, Maryland to annex certain property into the jurisdiction of the City of Rockville, and in support thereof, state as follows:

1. Annexation is sought by WMATA in its capacity as current owner of not less than twenty-five per centum (25%) of the assessed valuation of the Subject Property (defined below) to be annexed. The Subject Property is known as part of the Twinbrook Metro station site and consists of 738,725 square feet (16.95 acres). The Subject Property is situated to the east of the Metrorail tracks and to the west of Twinbrook Parkway. The Subject Property is more particularly described in the ALTA survey and legal description, attached hereto and made a part hereof as Exhibit "A" and Exhibit "B" (hereinafter the "Subject Property"). A copy of an excerpt from Tax Map GQ63 is attached hereto and made a part hereof as Exhibit "C", showing the Subject Property in crosshatch.

2. WMATA is the owner of all but 40,089 square feet of the Subject Property which said 40,089 square feet is currently owned by Montgomery County; WMATA is in the process of acquiring 6,336 square feet of the 40,089 square feet from Montgomery County.

3. The Subject Property lies in a location contiguous to and adjoining the existing corporate boundary of the City of Rockville, and is within the maximum expansion limits of the City of Rockville.

4. There are no residents or registered voters for County Elections residing upon the Subject Property.

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5. The tax account numbers for the Subject Property are 04-00080034; 04-02774040; 04-02774038; and 04-02774051.

6. WMATA requests that the Mayor and Council include as part of the annexation resolution the reclassification of the Subject Property to the Rockville Pike Corridor ("RPC") Zone. As part of such annexation and rezoning, WMATA will enter into an annexation agreement with the City proposing modifications to certain of the RPC Zone standards.

7. WMATA presents the following exhibits in support of the Petition:

- (a) Exhibit "A" - ALTA Survey of the Subject Property, including a Vicinity Map showing the Subject Property and the surrounding area;
- (b) Exhibit "B" - Metes and bounds legal description;
- (c) Exhibit "C" - A copy of a portion of Tax Map GQ63 showing the Subject Property in crosshatch; and
- (d) Exhibit "D" - the name and mailing address of the two property owners.

Respectfully submitted,

OWNER:  
Washington Metropolitan Area  
Transit Authority

By: K-P Heinemeyer  
Contracting Officer

District of Columbia  
STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

\*  
\*  
\*

to wit:

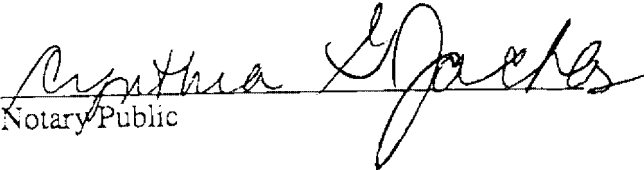
I HEREBY CERTIFY that on this 20<sup>th</sup> day of July, 2004, before me,  
Cynthia G. Sachs, a Notary Public in and for the jurisdiction aforesaid, personally  
appeared K-P Heinemeyer, known to me (or satisfactorily proven) to be the person whose

(9)

~~X~~

name is subscribed to the within instrument as Contracting Officer for Washington Metropolitan Area Transit Authority, party to the foregoing instrument, and acknowledged that she executed the foregoing and annexed instrument as the act and deed of said Washington Metropolitan Area Transit Authority for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public

My Commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]

Cynthia G. Jackles  
Notary Public District of Columbia  
My Commission Expires 02/28/09

# 1895384\_v1



MAY 14, 2004  
PART OF THE PROPERTY OF  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY  
AND  
PART OF LOTS 13 AND 14, BLOCK 8  
SPRING LAKE PARK  
AND  
A PORTION OF  
PARKLAWN DRIVE  
AND  
A PORTION OF  
ARDENNES ROAD  
ROCKVILLE (4<sup>TH</sup>) ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

ATTACHMENT 2

Being part or all of the property acquired by Washington Metropolitan Area Transit Authority, in the following twenty-eight (28) conveyances:

- 1.) From Suburban Propane Gas Corporation by deed dated November 25, 1981 and recorded in Liber 5801 at Folio 457;
- 2.) From Danac Real Estate Investment Corporation by deed dated March 4, 1980 and recorded in Liber 5490 at Folio 212, and also being part of Lot 3, Block "A", Spring Lake Park Halpine Subdivision, as recorded in Plat 9204
- 3.) From Danac Real Estate Investment Corporation by deed dated November 14, 1979 and recorded in Liber 5434 at Folio 504
- 4.) From Walter W. Anderson and Mildred Anderson by deed dated January 7, 1980 and recorded in Liber 5465 at Folio 110
- 5.) From Margaret Belle Myers and Irvin P. Myers by deed dated January 17, 1980 and recorded in Liber 5469 at Folio 846
- 6.) From Dorthy C. Poates and Henry W. Poates, Jr. by deed dated December 21, 1979 and recorded in Liber 5459 at Folio 123
- 7.) From William H. Metcalfe, et ux. and unknown owners by deed dated February 20, 1967 and recorded in Liber 5402 at Folio 801



VIKA Incorporated

- 8.) From Janet R. Gilbert, et al by deed dated February 20, 1967 and recorded in Liber 5501 at Folio 890
- 9.) From Michale Tuchler and Ziona Tuchler by deed dated August 14, 1980 and recorded in Liber 5560 at Folio 074
- 10.) From Dorothy K. Clagett, Mary Margeret Gaver, Pauline Baker, Harry L. Kraft, D. Leonard Kraft, Hilda K. Boswell, J. Woodrow Kraft and Marjorie Coates by deed dated September 1980 and recorded in Liber 5587 at Folio 091, and also being a portion of Parcel "A" as shown on Plat No. 9547
- 11.) From Daniel Leonard Kraft and Doris S. Kraft by deed dated September 12, 1980 and recorded in Liber 5587 at Folio 097 and also being all of Parcel "B" as shown on Plat No. 9547
- 12.) From James G. Davis, et al by deed dated February 20, 1967 and recorded in Liber 5430 at Folio 597 and also being a portion of Lots 3, 4, and 5, Block 9 as shown on Plat Book 8 as Plat No. 3
- 13.) From Wesley R. Weese, et al by deed dated February 20, 1967 and recorded in Liber 5574 at Folio 072
- 14.) From Progressive Color Corporation by deed dated August 26, 1980 and recorded as Liber 5568 at Folio 172 and also being a portion of Lot 3, Block "A" as shown on Plat No. 10000
- 15.) From Gerald J. Schipper , et al by deed dated February 20, 1967 and recorded in Liber 5538 at Folio 738
- 16.) Part of from Maloney Concrete Company by deed dated December 1, 1978 and recorded in Liber 5248 at Folio 763 and also part of Parcel "A", Block "B" as shown on Plat No. 8899
- 17.) Abandonment of Part of Parklawn Drive as recorded in Liber 5841 at Folio 378 and Outlot "A" as shown on Plat No. 16938
- 18.) Abandonment of part of an alley as recorded in Liber 5850 at Folio 211, Outlot "C" as shown on Plat No. 16938
- 19.) From the Baltimore and Ohio Railroad Company by deed dated August 21, 1979 and recorded as Liber 5538 at Folio 791 and also being all of Lot 13, part of Lot 14 and a portion of a ten (10) foot alley, Block 8, Spring Lake Park, recorded in Plat Book 8 as Plat No. 3 and also being a portion of Parklawn Drive, 80 foot wide and a portion of Ardennes Road, 70 foot wide all among the Land Records of Montgomery County, Maryland and more particularly described as follows:

(12)



Part 1

Beginning for the same at a point on the southerly right-of-way line of Ardennes Road, 70 feet wide, as recorded in Plat Book 65 at Plat 5761, said point marking the northerly common corner with Halpine Baptist Church, recorded in Liber 3439 at Folio 50 and shown on a Plat recorded in Plat Book 80 at Plat 8189 all among the Land Records of Montgomery County, Maryland; thence running with said southerly right-of-way line of Ardennes Road

- 1.) 161.35 feet along the arc of a non-tangent curve to the left having a radius of 635.00 feet and a chord bearing and distance of South  $47^{\circ} 41' 01''$  East, 160.91 feet to a point marking the common northerly corner with Lot 2, Block A, Spring Lake Park, Halpine Subdivision, recorded as Plat No. 8167 among the aforesaid Land Records; thence running with said common line of Lot 2, Block A, and with the common line of Lot 4, Block A, Spring Lake Park, Halpine Subdivision, recorded as Plat No. 9655 among the aforesaid Land Records, the following three (3) courses and distances
- 2.) South  $21^{\circ} 09' 04''$  West, 265.53 feet to a point; thence
- 3.) North  $88^{\circ} 01' 41''$  East, 129.65 feet to a point; thence
- 4.) South  $00^{\circ} 02' 53''$  East, 207.54 feet to a point; thence running with the outline of Parcel A and B Spring Lake Park, recorded as Plat No. 9547 and with the property of John R. Mohler and B. Joseph Tibolla as recorded in Liber 5712 at Folio 326 all among the aforesaid Land Records, the following seven (7) courses and distances
- 5.) North  $89^{\circ} 23' 20''$  East, 119.92 feet to a point; thence
- 6.) South  $45^{\circ} 59' 26''$  East, 17.27 feet to a point; thence
- 7.) South  $00^{\circ} 37' 47''$  East, 112.84 feet to a point; thence
- 8.) South  $89^{\circ} 26' 19''$  West, 10.20 feet to a point; thence
- 9.) South  $00^{\circ} 33' 40''$  East, 169.99 feet to a point; thence
- 10.) South  $89^{\circ} 26' 20''$  West, 80.00 feet to a point; thence
- 11.) South  $00^{\circ} 33' 40''$  East, 108.93 feet to a point on the northerly right-of-way line of Parklawn Drive, 80 feet wide; thence running with said northerly right-of-way line of Parklawn Drive

12.) South  $89^{\circ} 26' 20''$  West, 120.00 feet to a point marking the common line with Michael and Ziona Tuchler as recorded in Liber 3663 at Folio 355; thence leaving said northerly right-of-way line of Parklawn Drive and running with said common line of Michael and Ziona Tuchler, the following four (4) courses and distances

13.) North  $00^{\circ} 33' 40''$  West, 98.93 feet to a point; thence

14.) South  $89^{\circ} 26' 20''$  West, 166.97 feet to a point; thence

15.) South  $48^{\circ} 04' 16''$  West, 39.38 feet to a point; thence

16.) South  $06^{\circ} 54' 40''$  East, 73.36 to a point on the aforesaid northerly right-of-way line of Parklawn Drive; thence running with said right-of-way of Parklawn Drive, the following three (3) courses and distances

17.) South  $89^{\circ} 26' 30''$  West, 23.86 feet to a point; thence

18.) 100.62 feet along the arc of a tangent curve to the left having a radius of 65.00 feet and a chord bearing distance of South  $45^{\circ} 05' 41''$  West, 90.87 feet to a point; thence

19.) South  $00^{\circ} 44' 53''$  West, 43.43 feet to a point on the westerly right-of-way line of Wicomico Avenue; thence running with said westerly right-of-way line of Wicomico Avenue, the following three (3) courses and distances

20.) South  $50^{\circ} 52' 20''$  West, 0.21 feet to a point; thence

21.) South  $00^{\circ} 36' 40''$  East, 214.06 feet to a point; thence

22.) South  $89^{\circ} 23' 20''$  West, 34.00 feet to a point on the northerly line of the Baltimore and Ohio Railroad; thence running with said northerly line of the Baltimore and Ohio Railroad, the following six (6) courses and distances

23.) North  $42^{\circ} 00' 40''$  West, 28.48 feet to a point; thence

24.) North  $42^{\circ} 00' 35''$  West, 706.20 feet to a point; thence

25.) North  $86^{\circ} 58' 44''$  West, 19.61 feet to a point; thence

26.) North  $41^{\circ} 58' 44''$  West, 36.83 feet to a point; thence

27.) North  $03^{\circ} 01' 16''$  East, 19.56 feet to a point; thence



28.) North  $42^{\circ} 08' 11''$  West, 93.84 feet to a point on the North  $36^{\circ} 04' 00''$  West, 938.05 foot line of Parcel A, Block B, Spring Lake Park, recorded as Plat No. 8899 among the aforesaid Land Records, being 73.47 feet southeasterly from the northwesterly end thereof; thence running so as to cross and include a portion of the property of Washington Metropolitan Area Transit Authority as acquired in Liber 5248 Folio 763, Liber 5801 Folio 457 and Liber 5434 Folio 504 and with the common line of Halpine Square, Parcel A as recorded on Plat No. 18874 and Parcel B, Halpine Square as recorded on Plat No. 19988 all among the aforesaid Land Records

29.) North  $50^{\circ} 15' 07''$  East, 699.04 feet to a point; thence running with the common line of the aforesaid Parcel B, Halpine Square as recorded on Plat No. 19988 and with the common line of the property of Halpine Baptist Church as recorded in Liber 3439 Folio 50 and Liber 3044 Folio 649 and also Parcel A, Halpine Baptist Church recorded as Plat Book 80 Plat No. 8189 all among the aforesaid Land Records

30.) North  $58^{\circ} 34' 59''$  East, 340.27 feet to the point of beginning containing 704,972 square feet or 16.18393 acres of land.

## Part 2

Beginning for the same at the point of beginning as described in Part 1; thence running so as to cross and include a portion of said Ardennes Road

- 1.) North  $49^{\circ} 35' 44''$  East, 70.00 feet to a point; thence running with the outline of said Ardennes Road, the following four (4) courses and distances
- 2.) 271.54 feet along the arc of a non-tangent curve to the left having a radius of 565.00 feet and a chord bearing and distance of South  $54^{\circ} 10' 21''$  East, 268.93 feet to a point; thence
- 3.) South  $67^{\circ} 56' 26''$  East, 165.00 feet to a point; thence
- 4.) 39.27 feet along the arc of a tangent curve to the left having a radius of 25.00 feet and a chord bearing and distance of North  $67^{\circ} 03' 34''$  East, 35.36 feet to a point; thence
- 5.) South  $22^{\circ} 03' 34''$  West, 120.00 feet to a point marking the northerly line of Lot 3, Block A, Spring Lake Park Halpine Subdivision, recorded as Plat No. 10000 among the aforesaid Land Records; thence running with the common line of said Lot 3, Block A, the following three (3) courses and distances

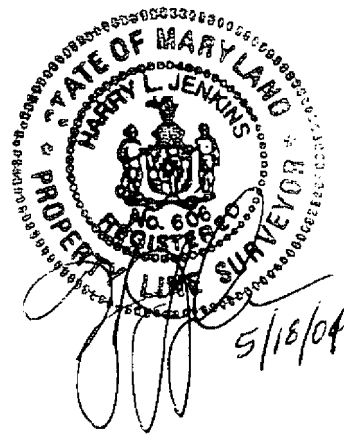
6.) 39.27 feet along the arc of a non-tangent curve to the left having a radius of 25.00 feet and a chord bearing and distance of North 22° 56' 26" West, 35.36 feet to a point; thence

7.) North 67° 56' 26" West, 165.00 feet to a point; thence

8.) 143.83 feet along the arc of a tangent curve to the right having a radius of 635.00 feet and a chord bearing and distance of North 61° 27' 06" West, 143.52 feet to a point marking the easterly end of the first (1<sup>st</sup>) or 161.35 foot curved line as described in Part 1; thence running reversly with said first (1<sup>st</sup>) or 161.35 foot curved line

9.) 161.35 feet along the arc of a tangent curve to the right having a radius of 635.00 feet and a chord bearing and distance of North 47° 41' 01" West, 160.91 feet to the point of beginning containing 33,753 square feet or 0.77486 acres of land.

Total Area included in description is 738,725 square feet or 16.95879 acres of land.



CONTROL

ATTACHMENT 3

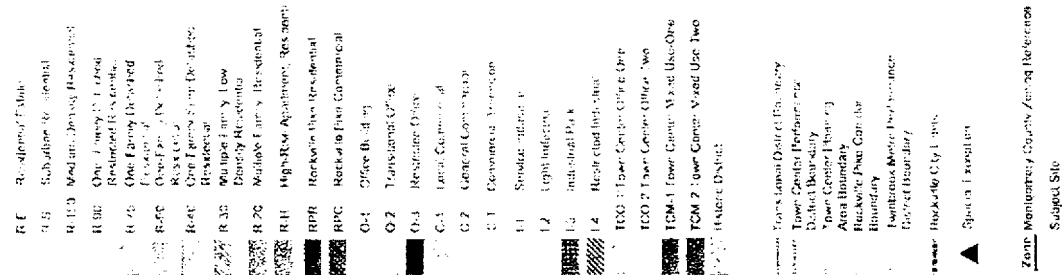
17

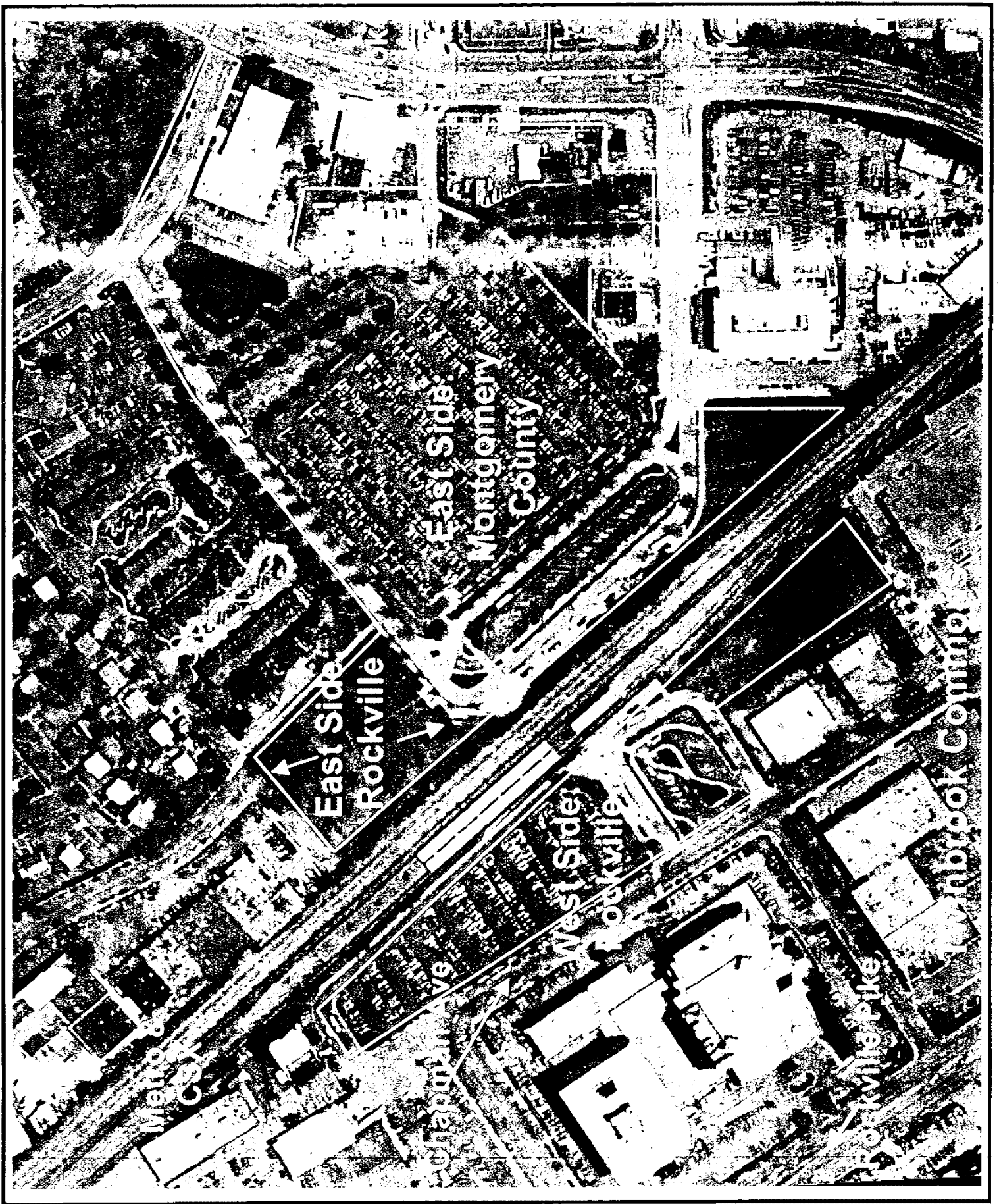
REF ID: A62822

WASHINGTON -

ATTACHMENT  
⑤

SCALE 1" = 200'





# A PLAN IN RESPONSE PUBLIC INPUT

1. Linear Park to buffer adjacent Townhouse neighbors
2. Added fence and additional landscaping to Linear park
3. Closed off Lewis Avenue connection to vehicular traffic
4. Added green screen to parking garage along the townhouses
5. Enclosed garage façade, increased setback and shifted orientation along townhouses
6. Reduced 14 story building to 8 stories near townhouses
7. Reduced four 14 story buildings to 12 stories around village green
8. Modified design of Chapman Ave to accommodate bike trail
9. Introduced lofts and live work units to residential unit mix
10. Seeking Musical Theatre as part of public art requirement
11. Introduced concert pavilion in The Commons
12. Agreed to exceed Public Art Requirement
13. Increased open space to 25% of site area vs. 10% required
14. Increased MPDU's from 12.5% to 15%; reserved percentage for seniors
15. Changed office building to residential building to reduce traffic impact
16. Revised original circulation plan to minimize bus traffic
17. Added green roofs
18. Added Transit Resource Center
19. Moved WMATA walkway along Chapman Ave. to increase safety and to animate street
20. Added community room for TCA

ATTACHMENT - 6

**ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT ("Agreement"), made this \_\_\_\_ day of \_\_\_\_\_, 2004, by and among WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (hereinafter referred to as either "WMATA" or "Owner"), and TWINBROOK COMMONS, L.L.C., a \_\_\_\_\_ limited liability company (hereinafter referred to as "Lessee") and the MAYOR AND COUNCIL OF ROCKVILLE, a municipal corporation of the State of Maryland (hereinafter referred to as "Rockville") (collectively the "Parties").

**W I T N E S S E T H:**

WHEREAS, WMATA owns approximately 16.03 acres (698,636 square feet) of land and Montgomery County owns approximately 40,089 square feet of land, both areas bounded generally by the B&O railroad right-of-way to the west, Parklawn Drive to the south, Twinbrook Parkway to the east, and Ardennes Avenue to the north; as more particularly described on Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, approximately 6,336 square feet of the 40,089 square feet owned by Montgomery County is to be acquired by Twinbrook Commons, L.L.C. and included with the WMATA owned property for a total of 16.18 acres (704,972 square feet); and

WHEREAS, it is the desire of Rockville to include the remaining 33,753 square feet owned by Montgomery County that comprises a portion of the Ardennes Avenue right-of-way area in the petition for annexation; and

WHEREAS, for purposes of this Annexation Agreement, all of the Property, including the 698,636 square feet owned by WMATA; the 6,336 square feet currently owned by Montgomery to be acquired by Twinbrook Commons, L.L.C.; and the 33,753 square feet comprising a portion of the Ardennes Avenue right-of-way, is hereinafter referred to as the "Subject Property" or "Twinbrook Commons-County."

WHEREAS, the Subject Property is currently located within the jurisdictional boundaries of Montgomery County, Maryland; and

WHEREAS, WMATA owns approximately 8.36 acres (364,532 square feet) of land to the west of the Subject Property immediately adjacent and to the west of the WMATA metro rail tracks and approximately 1.77 acres (77,157 square feet) of land north of the Subject Property immediately adjacent and to the east of the WMATA metro rail tracks, as more particularly described on Exhibit "B", attached hereto and made a part hereof (hereinafter referred to as "Twinbrook Commons-City"); and



WHEREAS, Twinbrook Commons-City is located within the municipal boundaries of the City of Rockville; and

WHEREAS, Twinbrook Commons-City and Twinbrook Commons-County (i.e., the "Subject Property") except for the Ardennes Avenue right-of-way, comprise the land area owned by WMATA and known as the Twinbrook Metro Station site which is collectively with any said future improvements to be known as "Twinbrook Commons"; and

WHEREAS, Lessee and WMATA entered into a joint development agreement dated \_\_\_\_\_ (the "Joint Development Agreement") to develop Twinbrook Commons; and

WHEREAS, pursuant to the Joint Development Agreement, Lessee is the long term ground lessee of Twinbrook Commons and is authorized, subject to the approval of WMATA, to pursue the necessary approvals to accommodate the proposed development of Twinbrook Commons;

WHEREAS, WMATA has petitioned Rockville to annex the Subject Property, totaling 16.95 acres, more or less, pursuant to Annexation Petition ANX2004-00136; and

WHEREAS, the Subject Property is contiguous to and adjoins the existing corporate boundaries of Rockville; and

WHEREAS, it has been verified that WMATA owns at least twenty-five percent (25%) of the assessed valuation of real property located in the area to be annexed; and

WHEREAS, there are no registered voters for county elections residing upon the Subject Property; and

WHEREAS, pursuant to the provisions of Section 19(c) of Article 23A of the Annotated Code of Maryland, a resolution has been introduced to annex the Subject Property; and

WHEREAS, public notices of the introduction of the resolution to annex the Subject Property have been published not fewer than four (4) times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville in the area to be annexed, said notices specifying that public hearings would be held by the Mayor and Council on said resolution at Rockville City Hall, on \_\_\_\_\_, 2004; and

WHEREAS, on \_\_\_\_\_, 2004, the Rockville Planning Commission held a public hearing on Annexation Petition ANX2004-00136; and

WHEREAS, pursuant to the aforesaid notices, the Mayor and Council of Rockville conducted public hearings on said resolution on \_\_\_\_\_, 2004, at Rockville City Hall, consistent with the time and place provided for in said advertisement which hearings were not held less than fifteen (15) days after the fourth publication of the public notices referenced above; and

WHEREAS, at the conclusion of the \_\_\_\_\_, 2004 public hearing, the Mayor and Council left the Record open until \_\_\_\_\_, 2004, to permit interested parties additional time to provide additional comments or information relative to the aforementioned petition for annexation; and

WHEREAS, the annexation of the Subject Property will (i) promote Rockville's goal of annexation within Rockville's urban growth areas, (ii) establish more concise and reasonable boundaries for the Rockville corporate limits, and (iii) encourage efficient and effective delivery of public services and placement of public facilities; and

WHEREAS, Rockville intends to annex the Subject Property as requested by WMATA; and

WHEREAS, the Subject Property is currently classified in the TS-R Zone (transit-station residential) under the zoning regulations of Montgomery County, Maryland and is recommended by Montgomery County for mixed-use residential in the current and duly adopted North Bethesda-Garrett Park Master Plan for the area of Montgomery County that includes the Subject Property; and

WHEREAS, on May 6, 2004 the Montgomery County Planning Board approved Preliminary Plan No. 1-04054 permitting the development of 1,114 dwelling units and 140,000 square feet of retail commercial space on the Subject Property; and

WHEREAS, by Ordinance No. \_\_\_\_\_, and subject to its annexation, Rockville agreed to place the Subject Property in the Twinbrook Metro Performance District and the Rockville Pike Corridor ("RPC") Zone.

WHEREAS, Owner and Lessee filed a preliminary development plan for Twinbrook Commons on October 29, 2004 (PDP 2004-00009) and the Mayor and Council approved the preliminary development plan on \_\_\_\_\_ (the "Preliminary Development Plan"), subject to the annexation of Twinbrook Commons-County, allowing for the mixed-use development of Twinbrook Commons to include multi-family dwelling units, commercial retail and office space and

WMATA facilities, as provided for in detail by the Preliminary Development Plan, a copy of which is attached hereto as Exhibit "C".

WHEREAS, on \_\_\_\_\_ 2004, the Planning Commission approved, subject to annexation of Twinbrook Commons-County, Use Permit – USE \_\_\_\_\_ for \_\_\_\_\_ square feet of residential, \_\_\_\_\_ square feet of retail, \_\_\_\_\_ square feet of office, \_\_\_\_\_ private parking spaces and \_\_\_\_\_ WMATA commuter parking spaces on 8.36 acres of land encompassing all of Twinbrook Commons located to the west of the B&O railroad tracks; Use Permit USE \_\_\_\_\_ for a temporary \_\_\_\_\_ space surface parking facility located on 1.77 acres of land located to the east of the B&O railroad tracks; and Use Permit USE \_\_\_\_\_ for \_\_\_\_\_ square feet of retail, \_\_\_\_\_ dwelling units and \_\_\_\_\_ parking spaces located on \_\_\_\_\_ acres of the Twinbrook Commons-County site (collectively the "Use Permits"); and

WHEREAS, on \_\_\_\_\_ 2004, the Planning Commission approved, subject to the annexation of Twinbrook Commons-County, Final Plat \_\_\_\_\_ and Final Plat \_\_\_\_\_, collectively encompassing the entire Twinbrook Commons area;

WHEREAS, the City of Rockville Mayor and Council have concluded that the residential and retail development on Twinbrook Commons-County approved pursuant to the Preliminary Development Plan and the Use Permits in accordance with the RPC Zone of Rockville represents a zoning and land use that is not

substantially different from the zoning and land use specified in the Montgomery County TS-R Zone, such that the express approval of the annexation by the County Council of Montgomery County is not required pursuant to Article 23A, Section 9 of the annotated Code of Maryland; and

WHEREAS, if Owner or Lessee modify the approved Preliminary Development Plan such that the zoning and land use are considered substantially different from the zoning and land use specified in the Montgomery County TS-R Zone, the express approval of the County Council of Montgomery County may be required pursuant to Article 23A, Section 9, of the Annotated Code of Maryland; and

WHEREAS, all Parties desire to execute this Annexation Agreement to establish the conditions under which the Subject Property shall be annexed, rezoned and developed.

NOW, THEREFORE, in consideration of the foregoing recitals, each of which shall be deemed a part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties covenant and agree as follows:

1. Upon annexation of the Subject Property into Rockville, the Subject Property shall be validly classified in the RPC Zone and located within the Twinbrook Metro Performance District. Owner and Lessee agree that all

development on the Subject Property shall be pursuant to the Preliminary Development Plan Optional Method as contained in Article XIV Division 2 of the Rockville City Code, presently in effect, or as may be hereinafter amended from time to time ("RPC/PDP Optional Method").

2. The Parties agree that upon annexation Twinbrook Commons shall be developed in accordance with the Preliminary Development Plan, the Use Permits, and any subsequent use permits approved in accordance with the Preliminary Development Plan. Nothing herein shall preclude Owner or Lessee from seeking at any time and from time to time in the future, subsequent amendments to the Preliminary Development Plan, the Use Permits or the future use permits in any manner consistent with the RPC Preliminary Development Plan Optional Method of Development set forth in Rockville City Code Section \_\_\_\_, or the procedures of any succeeding underlying zone, provided that the proposed development shall not exceed the maximum densities and maximum number of residential units set forth in the RPC Zone or any succeeding underlying zone.

3. The Parties agree that fifteen (15) percent of the total number of residential units shall be devoted to Moderately Priced Dwelling Units ("MPDUs"). MPDUs shall be provided in accordance with the MPDU Staging Plan approved as part of the Preliminary Development Plan. Rockville further agrees that affordable

units devoted to the elderly shall be considered MPDUs, for purposes of satisfying the Twinbrook Commons' MPDU requirement.

4. Rockville agrees that all densities calculated in connection with the Twinbrook Commons development shall be based on the \_\_\_\_ acre gross lot area of Twinbrook Commons prior to any dedications, reservations and/or acquisitions.

5. Rockville, Owner and Lessee agree that the roadways within the boundaries of Twinbrook Commons as generally shown on Exhibit "B" and referred to as Main Street, Street A, Street B and Street C shall, at the Owner's and Lessee's option, be held as private streets. Nothing herein shall preclude Owner and/or Lessee from pursuing the dedication of the roadways to Rockville which, if accepted by Rockville, shall become public streets. The Parties understand that the decision to accept the roadways as public streets is solely within the discretion of Rockville and nothing herein shall be construed as requiring Rockville to accept the offer of dedication. Lessee agrees to construct roadways irrespective of whether roadways are classified as private or public streets (the "Project Streets").

A. Construction (and dedication, if applicable) of any of the Project Streets shall be set forth as part of the Preliminary Development Plan and shall not be required until construction in accordance with an approved use permit for that portion of the development linked to the Project Street in question has commenced.



Rockville agrees that the staging of the construction will permit the structures shown on the Preliminary Development Plan to develop individually or concurrently and without a prescribed sequence, so long as Project Streets necessary to serve development of the areas in question are provided.

B. The typical cross-sections (and limits of dedication, if applicable) of the Project Streets shall be as set forth on the Preliminary Development Plan.

6. As part of the Preliminary Development Plan the Mayor and Council approved a transportation analysis prepared by Lessee in accordance with Rockville's Comprehensive Transportation Review. No further transportation studies pursuant to Rockville's Comprehensive Transportation Review (or comparable successor policy) or otherwise to evaluate the adequacy of existing and proposed roadways to accommodate the trips to be generated from Twinbrook Commons shall be required, provided that the overall peak period passenger vehicle trip generation associated with the approved Preliminary Development Plan is not increased. Any reallocation of densities or changes in uses within Twinbrook Commons that does not result in a higher peak period passenger vehicle trip generation than that approved in connection with the Preliminary Development Plan shall not require any additional traffic analysis.

7. Owner, Rockville and Lessee agree that as provided by the approval of the Preliminary Development Plan, Lessee's sole obligation to accommodate the traffic generated by Twinbrook Commons shall be as follows: 1) construction of the roads, parking and pedestrian facilities reflected in the Preliminary Development Plan; 2) implementation of measures and satisfaction of goals identified in a Trip Reduction Agreement entered into by Lessee and Rockville; 3) payment of the Rockville Transportation Management Demand Fee; and 4) payment of the Development Impact Tax, as discussed below in Paragraphs 8, 9 and 10.

8. Owner, Lessee and Rockville agree that the Trip Reduction Agreement entered into as a precondition to the approval of the Preliminary Development Plan which provides a specified trip-mitigation goal, trip mitigation measures and an enforcement mechanism constitutes all of the trip mitigation measures to which Twinbrook Commons shall be subject.

9. Pursuant to the Rockville Transportation Management Demand Fee, Lessee shall, for each residential and commercial structure, pay for a period of twelve (12) years the annual transportation management district fee not to exceed \$.10 per square foot for non-residential and \$60 per dwelling unit for multi-family.

10. Lessee will pay the applicable transportation development impact tax, pursuant to Sections 52-57, Article VII, Chapter 52 Montgomery County Code 1994

(as amended) (the "Development Impact Tax") in connection with the Twinbrook Commons development, as adjusted for any credits for transportation improvements provided by Lessee for the Twinbrook Commons development. As provided for by the Memorandum of Understanding between the City of Rockville and Montgomery County dated ..... regarding the Development Impact Tax, all funds collected in connection with the development of properties within the City of Rockville shall be allocated for improvements within the City of Rockville.

11. The Parties agree that in connection with the approval of the Preliminary Development Plan, school capacity was determined to be adequate and therefore Lessee's sole obligation with respect to school adequacy shall be the payment of the Schools Facilities Impact Tax in accordance with Section 52-90, Article XII, Chapter 52, Montgomery County Code 1994 (as amended).

12. Rockville recognizes that the Subject Property is entitled to receive adequate public water and sewer treatment capacity from the Washington Suburban Sanitary Commission (hereinafter referred to as "WSSC") to serve the Proposed Development. If requested by Lessee, Rockville agrees to cooperate, assist and support Owners in obtaining such service from WSSC.

13. The Parties agree that the development of the WMATA commuter parking structures shall be governed by the design standards approved and adopted by WMATA.

14. Rockville, Owner and Lessee agree to execute any and all such documents and/or to take such actions necessary to carry out the terms and conditions of this Agreement.

15. This Agreement shall not become effective until the Annexation Resolution becomes effective pursuant to Article 23A, Section 19 of the Annotated Code of Maryland (hereinafter "Effective Date of Annexation"). At any time prior to the Effective Date of Annexation, Owner may petition for a referendum on the Annexation in accordance with Section 19(f) of Article 23A of the Annotated Code of Maryland, the result of which shall be to suspend the effectiveness of the Annexation resolution. Owner may further withdraw the Preliminary Development Plan and the Use Permits, all of which shall be terminated and of no force and effect and the Parties shall have no obligations or liabilities thereunder.

16. This Agreement shall be assignable, in whole or in part, by Owner or Lessee, without the consent of Rockville, any of its elected officials, employees or agents, except that the obligations provided for herein shall not, in whole or in part,

be assigned to, or in any way become the responsibility of, any individual resident or residents' association.

17. The provisions of this Agreement are and shall be deemed to be covenants running with the land and shall be binding upon Owner, Lessee and their respective successors and assigns with an interest in Twinbrook Commons. The obligations and liabilities of Owner and Lessee shall apply only during the period of time WMATA is the fee simple owner of Twinbrook Commons and Lessee is the ground lessee of Twinbrook Commons. If either WMATA or Lessee conveys its respective interests in Twinbrook Commons, or any portion of Twinbrook Commons, then at the time of conveyance, unless the instrument of conveyance provides otherwise, the transferor automatically shall be relieved of any and all obligations and liabilities under and pursuant to this Agreement with respect to the portion of Twinbrook Commons so conveyed, and the transferee pursuant to such conveyance of the transferor's interest automatically shall assume all of the transferor's obligations and liabilities associated with such portion under and pursuant to this Agreement with respect to the portion of Twinbrook Commons so conveyed.

18. The obligations of the Owner and Lessee to dedicate portions of Twinbrook Commons or to construct infrastructure improvements on or in the vicinity of Twinbrook Commons pursuant to this Annexation Agreement are contingent upon the Owner's and Lessee's continuing right to develop Twinbrook

Commons as permitted in the RPC zone (or any comparable subsequent zone) consistent with the Preliminary Development Plan. In consideration for Owner and Lessee's agreement to the obligations and conditions set forth in this Agreement with respect to dedications, construction and/or payments for or related to the provision of transportation improvements and other public facilities or services, Rockville acknowledges and agrees that the development of Twinbrook Commons in accordance with the Preliminary Development Plan should not be subject to any further charges, fees or taxes (including without limitation, front foot benefit charges or assessments) to finance or mitigate the costs of transportation improvements or other public facilities or services which are deemed necessary to accommodate the development in accordance with the Preliminary Development Plan unless such charges, fees, assessments or taxes also apply to other developed properties in addition to Twinbrook Commons.

19. Subject to the provisions of Paragraph 17 above, this Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.

20. This Agreement shall be amended only in writing, signed by (or on behalf of) all parties hereto.

21. This Agreement shall be recorded in the Land Records of Montgomery County.

IN WITNESS WHEREOF, each of the parties hereto has executed and delivered this Annexation Agreement as of the date first set forth above, as evidenced by their respective signatures and acknowledgements on the following pages.

[Signature Pages To Follow]

ATTEST

MAYOR AND COUNCIL OF  
ROCKVILLE

STATE OF MARYLAND  
COUNTY OF MONTGOMERY

I hereby certify that on this \_\_\_\_ day of \_\_\_\_, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared Larry Giammo, who acknowledged himself to be the Mayor of the Mayor and Council of Rockville, Maryland, a municipal corporation, and that he, as Mayor, being authorized to do so, executed the foregoing instrument on behalf of the corporation for the purposes therein contained, and acknowledged the same to be the act and deed of the corporation, by signing the name of the Mayor and Council by himself as Mayor.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires:



ATTEST

WASHINGTON METROPOLITAN  
AREA TRANSIT AUTHORITY

STATE OF MARYLAND  
COUNTY OF MONTGOMERY

I hereby certify that on this \_\_\_\_ day of \_\_\_\_, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_, who acknowledged himself to be \_\_\_\_\_, a \_\_\_\_\_ corporation, and that he, as \_\_\_\_\_, being authorized to do so, executed the foregoing instrument on behalf of the corporation for the purposes therein contained, and acknowledged the same to be the act and deed of the corporation, by signing the name of \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires:

ATTEST

TWINBROOK COMMONS, L.L.C.

By: \_\_\_\_\_

\_\_\_\_\_  
STATE OF MARYLAND  
COUNTY OF MONTGOMERY

I hereby certify that on this \_\_\_\_ day of \_\_\_\_, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_, who acknowledged himself to be \_\_\_\_\_, a limited liability corporation, and that he, as \_\_\_\_\_, being authorized to do so, executed the foregoing instrument on behalf of the limited liability corporation for the purposes therein contained, and acknowledged the same to be the act and deed of the corporation, by signing the name of \_\_\_\_\_.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires:


December 20, 2004

# 1879249 v7



City of Rockville


## MEMORANDUM

ATTACHMENT 

December 16, 2004

TO: Mayor and Council

FROM: Planning Commission

VIA: Scott E. Parker, AICP, Planner III 

SUBJECT: Planning Commission Recommendation Regarding Twinbrook Commons  
Applications: Annexation petition ANX2004-00136; Sectional Map Amendment  
MAP2004-00090; Text Amendment TXT2004-00213; Preliminary Development  
Plan PDP2004-00009

On December 15, 2004, the Planning Commission, at a regularly scheduled and advertised meeting, reviewed and provided recommendations to the Mayor and Council on the items referenced above, as provided in the Ordinance. The Planning Commission considered all of the applications referenced above together, and provided one comprehensive recommendation.

Concerning the first item referenced above, application ANX2004-00136, the Planning Commission conducted a public hearing regarding the annexation of 16.95-acres of property associated with the Twinbrook Commons development. These 16.95 acres are currently under the jurisdiction of Montgomery County. This public hearing item was conducted first, and five members of the public spoke to the application. The response was generally favorable.

The following items, which were considered together, were as follows:

MAP2004-00090—A sectional Map amendment to change the zoning of the 16.95-acres of land to be annexed; to change the zoning of the 1.77-acre Suburban Propane property from I-2 to RPC; and to reaffirm existing RPC zoning on portions of the property adjacent to Chapman Avenue.

TXT2004-00213—Text Amendment to amend Article 14, creating a new Section 25-710-28, creating an optional method of development for proposals near the Twinbrook Metro station.

PDP2004-00009- Preliminary Development Plan (PDP) for the development of the Metro site.

The Planning Commission voted 6-0 to recommend approval of all the applications of the proposal. Specific comments from the individual commissioners are noted below.

Commissioner Johnson started the deliberations, stating that the concept is terrific, and is looking forward to the use permits to look at the proposal's details.

Commissioner Holz echoed Mr. Johnson's comments, adding that he commended the applicant for its outreach efforts to the community. He also stated that everyone is worried about traffic, but that Smart Growth starts at the Metro.

Commissioner Mullican stated that she has always supported this project, and has been impressed with the support and reasonableness of the Twinbrook Citizens Association (TCA). She stated that traffic was going to increase no matter what, and that this was a good development.

Commissioner Ostell stated that she supported the proposals. She further stated that the Montrose (and perhaps other) neighborhoods should have more input. Although expressing some concern over the project, she did compliment the applicant on their design and environmentally sensitive features.

Commissioner Britton also complimented the applicant on its outreach efforts and stated that the field visit was very helpful. He further stated that cut-through traffic should be addressed.

Chairman Hilton commented last, stating that the proposal contained a lot of positives. He also stated that an awful lot of residential units are coming online, and that at some point the City will need to address the issue of adequacy of fire protection through any APFO discussions.

/sep